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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/521,507	HEWES ET AL.
	Examiner	Art Unit	
	Jason Recek	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 October 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-34, 40-42 and 45-51</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-34, 40-42 and 45-51</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>04 October 2007</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

This is in response to the amendment filed October 4th 2007 which concerns

application 10/521507.

Status of Claims

Claims 1-34, 40-42 and 45-51 are pending.

Claims 35-39 and 43-44 are cancelled.

Claims 1-8, 12, 14-15, and 17-19 are currently rejected under 35 U.S.C. 102(b).

Claims 9-11, 13, 16, 20-34, 40-42 and 45-51 are currently rejected under 35

U.S.C. 103(a).

Response to Arguments

In light of applicant's amendments, the objections to the Specification, Drawings

and Claims have been withdrawn.

The rejections under 35 U.S.C. 112 second paragraph have also been withdrawn

in view of applicant's amendments.

1.   Applicant's arguments filed October 4th 2007 have been fully considered but they are not persuasive.

2.   Applicant argues that Caswell does not disclose developing, testing, and executing as well as analyzing of messaging programs. Specifically applicant argues that Caswell does not disclose "a dialog designer configured ... to allow for rapid messaging program creation, ... to schedule the messaging programs for execution, ... to test the messaging programs, to provide reports ... on the messaging programs" as recited by claim 1. This argument is not persuasive because Caswell does disclose "a dialog designer configured ... to allow for rapid messaging program creation" as generating a service (col. 5 ln. 40-42), "to schedule the messaging programs for execution" as a configuration where agents are scheduled for execution (col. 15 ln. 60), and "to test the messaging programs, to provide reports ... on the messaging programs" as an operational monitoring function (col. 4 ln. 1). Although Caswell is directed to creating a service for an ISP it also teaches that the service creation model may be used for other purposes (col. 5 ln. 40-44). A messaging program is a common service in a network environment thus Caswell's disclosure is relevant to messaging programs.

3.   Applicant argues that Gilchrist does not teach or suggest an organization's program designer designing a messaging program as recited in claim 18, but rather a framework. This argument is not persuasive because the terms framework and program are not mutually exclusive. Gilchrist discloses that a framework is a solution to

a programming problem (col. 6 ln. 14-15), similar to the way a program is a solution to a

programming problem. Although Gilchrist uses the term framework, in light of the

definition provided by Gilchrist one of ordinary skill in the art can interpret the term

framework as a type of program. Thus Gilchrist does indeed disclose designing a

messaging program.

4.   Applicant argues that Caswell and Eggleston do not teach or suggest each and

every limitation of claim 1. This argument is not persuasive because as discussed

above it is respectfully believed that Caswell alone discloses each and every limitation

of claim 1. Thus the combination of Caswell and Eggleston also disclose each and

every limitation of claim 1.

5.   Applicant argues that Caswell and Gilchrist do not teach or suggest each and

every limitation of claim 1. This argument is not persuasive because as discussed

above it is respectfully believed that Caswell alone discloses each and every limitation

of claim 1. Thus the combination of Caswell and Gilchrist also disclose each and every

limitation of claim 1.

6.   Applicant argues that Gilchrist does not disclose all the messaging technologies

taught in claim 27 and therefore Caswell and Gilchrist do not teach or suggest each and

every limitation of claim 27. This argument is not persuasive because Gilchrist

discloses e-mail, one of the claimed technologies. When a claim covers several

structures or compositions, either generically or as alternatives, the claim is deemed

anticipated if any of the structures or compositions within the scope of the claim is

known in the prior art (MPEP 2131). Since Gilchrist discloses one of the technologies

(e-mail) it is sufficient to anticipate that portion of the claim.

7.   Applicant argues that Gilchrist does not disclose "the client system is configured

to interface with the message application server to enable the client system to develop,

analyze, test, deploy, and monitor messaging application, the messaging applications to

generate messages, receive messages from and send messages to the message

service provider system" as recited in part in claim 28. This argument is not persuasive

for the following reasons.

8.   Examiner agrees that Gilchrist does not explicitly disclose "the client system is

configured to interface with the message application server" however, as stated in the

Office Action dated June 26, 2007 pg. 16-17 Caswell discloses client systems

configured to interface with said message application server (Fig. 4). What is missing

from Caswell is an explicit disclosure concerning developing, testing and deploying a

messaging application. However Gilchrist does disclose "enable the client system to

develop, analyze, test, deploy" as an iterative development process (col. 6 ln. 46) and

Caswell discloses generating a service model and that such a service model can be

used for network services (col. 5 ln. 41-44). While Caswell does not specifically

disclose developing a messaging application, a messaging service is a well known

network component and Caswell suggests that the service model may be used to

develop such components. Thus using the discloses of Caswell and Gilchrist to create a messaging program would have been obvious to one of ordinary skill in the art at the time of the invention. Therefore the disclosures of Caswell and Gilchrist combined teach or suggest each and every limitation of claim 28.

9.   Applicant argues that Caswell, Gilchrist and Eggleston do not teach or suggest "the client system is configured to interface with the message application server to enable the client system to develop, analyze, test, deploy, and monitor messaging application, the messaging applications to generate messages, receive messages from and send messages to the message service provider system" as recited in part in claim 28. This argument is not persuasive because Caswell and Gilchrist teach or suggest every limitation of claim 28 as discussed above.

10.   Applicant argues that Gilchrist and knowledge in the art do not teach or suggest an organization's program designer designing a messaging program as recited in claim 18. This argument is not persuasive since Gilchrist alone discloses designing a messaging program as discussed above.

11.   Applicant argues that Gilchrist and Tucciarone do not teach or suggest an organization's program designer designing a messaging program as recited in claim 18. This argument is not persuasive since Gilchrist alone discloses designing a messaging program as discussed above.

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12.   Applicant argues that Gilchrist and Dattatri do not teach or suggest an

organization's program designer designing a messaging program as recited in claim 18.

This argument is not persuasive since Gilchrist alone discloses designing a messaging

program as discussed above.

13.   Applicant argues that Gilchrist and Eggleston do no teach or suggest each and

every limitation of claim 26, specifically filtering out the message device addresses of

users that have opted out, the filtering out to result in the users that have opted out not

receiving push messages. This argument is not persuasive because Eggleston in fact

teaches filtering messages which results in the messages that are filtered not being sent

(col. 9 ln. 27-31). Furthermore, applicant argues that Eggleston does not teach a user

having to choose between receiving no messages or receiving all messages however

this is not the case because the user defined filter as taught by Eggleston could be set

up in such a manner that all messages are received or no messages are received (col.

8 ln. 40-55).

Claim Objections

14.   Claims 50-51 are objected to because of the following informalities: they depend

from nonexistent (cancelled) claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-8, 12, 14-15, and 17 are rejected under 35 U.S.C. 102(b) as being

anticipated by Caswell U.S. Pat. No. 6,336,138 B1.

Regarding claim 1, Caswell discloses "a dialog designer" as a discovery template

and generating the service model, these provide the features that the dialog designer

provides (col. 3 ln. 35-58, Fig. 9-12), "a dialog server" as application or front-end servers

(col. 6 ln. 65 – col. 7 ln. 13, Fig. 4), and "a message exchange" as an NFS service (col.

7 ln. 13-21, Fig. 4).

Regarding claim 2, Caswell discloses "wherein a plurality of organizations

hierarchically organized can independently develop, test, execute, and analyze

messaging programs" because the template disclosed may be configured for any one

organizations particular needs (col. 5 ln 63-67), also computation rules are disclosed

which allow for analyzing (col. 5. ln 59-60).

Regarding claim 3, Caswell discloses "wherein the organizations are not messaging service providers" because it describes the system being used by an internet service provider (col. 5 ln 39-40).

Regarding claim 4, Caswell discloses "connected to a plurality of message service providers" because the system of Caswell is connected to authentication servers and mail servers which are capable of sending messages to users (Fig. 4).

Regarding claim 5, Caswell discloses "connected to the messaging service providers systems via a data network" as a network connection between the discovery agent / management system to the mail server (Fig. 7), "using a variety of messaging protocols" such as POP3 (Fig. 5).

Regarding claim 6, Caswell discloses "the message application server is connected to the organizations via a data network" as a network connection between the discovery agent / management system and the file servers of the ISP (Fig. 7).

Regarding claim 7, Caswell discloses "the messaging users use messaging devices using a variety of messaging protocols" as a user using e-mail to retrieve messages (col. 5 ln. 55-57, col. 18 ln 57-63, Fig. 5).

Regarding claim 8, Caswell discloses "the messaging programs and instructions are designed using a graphical user interface" as a configuration interface (col. 9 ln. 47-49, Fig. 3 item 60).

Regarding claim 12, Caswell discloses "interface with the message application server via web service calls" as an ISP system which must communicate using application layer technologies such as HTTP, SMTP, etc. (col. 4 ln 13-16).

Regarding claim 14, Caswell discloses "wherein the dialog server can access the messaging instructions from a remote computer system" as front-end servers connected to remote computer systems (Fig. 4).

Regarding claim 15, Caswell discloses "instruction, includes [...] logic primitives, [etc.] whereby any message program of arbitrary complexity can be developed" as servers capable of running complex or simple programs (col. 6 ln 66 – col. 7 ln 1, Fig. 4).

Regarding claim 17, Caswell inherently discloses "store messages into queues with flow control techniques" as any system using TCP will provide flow control.

3. Claims 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilchrist et al. U.S. Pat. No. 6,205,471 B1.

Regarding claim 18, Gilchrist discloses "designing the messaging program" (col. 2 ln. 51-63), "selecting a segment for push programs" as a recipient list (Fig. 12), "selecting a program service address" (col. 17 ln 16-30, Fig. 12), "testing the messaging program" (col. 6 ln 45-48), "executing the messaging program" (col. 19 ln 10-23, Fig. 14), "users interacting with the messaging program" (Fig. 14), "storing the messaging users responses" (Fig. 8 item 44), "stopping the messaging program" as interrupting (col. 3 ln 16-20), and "analyzing the messaging program" by designing extensible functions which can be later configured depending on the needs of the messaging program (col. 6 ln 31-44).

Regarding claim 19, Gilchrist discloses "wherein the data captured as part of executing a messaging program is used in a subsequent messaging program" as an iterative design process, in such a process it is inherent that data captured or observations made will be used in the future (col. 6 ln. 45-46).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 9-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Caswell in view of Eggleston et al. Pat. No. 5,958.

Regarding claim 9, Caswell discloses "a data database" (col. 9 ln 21, Fig. 3 item

36), and "an address manager" as a management system (col. 9 ln 13-15, Fig. 3 item

56). Caswell does not disclose "an opt-out system", "a billing system" or a "message

detail record database" for billing purposes, however Eggleston does teach "an opt-out

system" as a user filter (col. 9 ln 27-29, Fig. 4 step 432), "a billing system" as a billing

manager (col. 2 ln 5-12, Fig. 2 item 262), and a "message detail record database"

capable of tracking billing events (col. 15 ln 25-31, Fig. 2 item 264).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Caswell with the filter and billing system of Eggleston. Eggleston

teaches that motivation is to provide users and managers with effectives means to

control messages during a billing cycle (col. 2 ln 5-13).

Regarding claim 10, neither Caswell nor Eggleston specifically teach to use the

data stored in the database in future programs however it is inherent that data collected

will be used in the future and obvious to one of ordinary skill that the use may be for similar programs. The motivation to combine is the same as in claim 9.

Regarding claim 13, Caswell does not disclose "customer relationship management (CRM) systems" however Eggleston teaches this as a billing manager (col. 2 ln 5-12, Fig. 2 item 262).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Caswell with the billing manager of Eggleston. Eggleston teaches that motivation is to provide users and managers with effectives means to control messages during a billing cycle (col. 2 ln 5-13).

6.   Claims 11, 16 and 27 – 31, 40-41, and 46-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell in view of Gilchrist et al. U.S. Pat. No. 6,205,471 B1.

Regarding claim 11, Caswell does not specifically disclose that "organization accesses the dialog designer using a web browser from a remote computer" however Gilchrist teaches that the messaging computer systems may receive data by well-known methods (col. 14 ln 20-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a web browser to access a remote computer. The motivation to combine Caswell with Gilchrist is to make a more efficient system.

Regarding claim 16, Caswell does not specifically disclose "dialog server maintains session state" however Gilchrist teaches a computer that can perform messaging tasks using multiple protocols including session based communication (col. 2 ln 11-29). It would have been obvious to use sessions to communicate the motivation is to provide more flexibility in the type of messaging programs.

Regarding claim 27, Caswell discloses receiving "a messaging device originated message" as mail servers connected to users (Fig. 4), "forwarding the messaging device originated message from the message exchange to a dialog server" as routing message to appropriate application (col. 6 ln. 65 – col. 7 ln. 13, Fig. 4), Caswell does not disclose the software based steps of (c) – (e) however these are taught by Gilchrist. Gilchrist teaches "looking up the appropriate session context [...] and the program service address" as a email framework that can operate on multiple protocols (abstract, col. 2 ln 11-29, Fig. 21-23), "executing pull messaging program instructions [...] based on the session state" (col. 3 ln 21-35 and col. 17 ln 25-30), and "routing the messaging device originated message in the message exchange to the appropriate messaging service provider, and storing any message status delivery returned" (Fig. 14, 38). It

would have been obvious to combine the steps of Gilchrist with Caswell, the motivation is to create a more flexible program.

Regarding claim 28, Caswell discloses "a client system" as an ISP (Fig. 4, 7), "a message service provider system" when an ISP is using the invention of Caswell to map several ISPs (Fig. 7), "a message application server in communication" as servers with at least NFS service interconnected by a network (col. 3 ln. 35-58, Fig. 9-12 , col. 6 ln. 65 – col. 7 ln. 21, Fig. 4), "client system is configured to interface with the message application server" (Fig. 4). Caswell does not specifically disclose client systems developing messaging applications and does not disclose "message application server is configured to determine and route the messages to the message service provider system regardless of the message service provider system's implemented messaging technology" however these are taught by Gilchrist as a email gateway that can accept multiple protocols (col. 2 ln 11-29) and an iterative development environment (col. 6 ln 14-53).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Caswell with Gilchrist. The motivation to develop programs using the iterative approach is to ensure they work properly.

Regarding claim 29, Caswell discloses "a dialog server" (col. 6 ln 65 – col. 7 ln 13).

Regarding claim 30, Caswell discloses "a message exchange" as a mail server (col. 7 ln 13-21, Fig. 4).

Regarding claim 31, Caswell discloses "a dialog designer" (col. 3 ln. 35-58, Fig. 9-12), "configured to provide an interface" (col. 4 ln 38-40).

Regarding claim 40, Caswell discloses "a plurality of messaging devices" as a plurality of users each with their own messaging device (Fig. 7), and "messaging service provide gateway communicatively connected to said messaging application server" as a network connection between the users and the server (Fig. 7).

Regarding claim 41, Gilchrist discloses an email gateway system capable accepting multiple protocols (col. 2 ln 11-15) this would include a system capable of supporting wireless devices.

Regarding claim 46, Caswell discloses "a graphical user interface (GUI) design tool" (col. 9 ln 46-51).

Regarding claim 47, a message application is interactive when a user receives a

message and responds. Gilchrist teaches an email gateway that is capable of

accepting responses from a user (Fig. 12) thus the message applications are inherently

interactive.

Regarding claim 48, Caswell discloses "client interface component" as a GUI at

an operator computing station (col. 9 ln 46-50), and "server interface component" which

will run on the server (Fig. 7).

Regarding claim 49, Caswell discloses "dialog designer is further configured to

facilitate reporting on message application transactions" as a sever which maintains a

log of activity, this will facilitate reporting of all transactions (servers Fig. 7).

Regarding claim 50, Gilchrist discloses an email gateway that can recognize a

message from a different protocol (col. 2 ln 13-15), thus support for "multimedia

messaging applications" is inherent.

Regarding claim 51, Caswell does not specifically disclose that "client interface

component is a web browser" however Gilchrist teaches that the messaging computer

systems may receive data by well-known methods (col. 14 ln 20-25), this includes

HTTP. It would have been obvious for one to use a web browser as an interface, the

motivation is to make the program easier to use.

7.   Claim 32-34, 42 and 45 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Caswell in view of Gilchrist and in further view of Eggleston.

Regarding claim 32, Caswell inherently discloses "an execution unit" as a

processor within a computer (Fig. 4), "an application service system" as a service model

that supports management functions (col. 3 ln 62 – col. 4 ln 3), "a user system" (Fig. 4,

7), "a dialog server in-queue to store messages" (col. 6 ln 66 – col. 7 ln 3, Fig. 3), "a

monitoring unit" (col. 3 ln 62-66), "a dialog server database" (36 Fig. 3), "a dialog

designer interface" (col. 9 ln. 47-49, Fig. 3 item 60), and "a message exchange" (mail

server Fig. 4). Gilchrist discloses "a scheduler unit" (col. 19 ln 10-23, Fig. 14), "a

session system" (col. 2 ln 26-29), "an application instruction unit" (Fig. 8), "a bulksend

unit" deliver method combined with recipient list (Fig. 12, 14), and "a message delivery

status system" non delivery method (Fig. 38). Caswell and Gilchrist do not disclose the

opt-out system or a log (database) for accounting purposes, however these are taught

by Eggleston (col. 9 ln 27-29, Fig. 4 step 432) and (col. 15 ln 25-31, Fig. 2 item 264)

respectively.

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the Caswell and Gilchrist with the features of Eggleston. The motivation is to enhance the messaging system by providing the billing feature, similar to claim 9.

Regarding claim 33, Caswell inherently discloses "an out queue" as the mail server would place outgoing messages in a queue until they are sent (Fig. 4), "an outgoing message router" (mail server Fig. 4), "an incoming message router" (mail server Fig. 4), "an address manager" DNS (col. 7 line 13-21), "a monitoring unit" (col. 5 ln 57-62), "a message exchange database" (74, 78 Fig. 4), "a message exchange message detail record database" (36, Fig. 3, col. 9 ln 18-21), "a dialog server interface" (60 Fig. 3), and "a dialog designer interface" (col. 3 ln 35-58). Gilchrist discloses "a plurality of outgoing handlers, each for a specific messaging technology" as object oriented email gateway that can recognize different protocols (col. 2 line 11-29), and "a plurality of incoming handlers" (col. 2 line 11-29). Caswell and Gilchrist do not disclose "a billing system" or "a billing MDR database" however these are taught by Eggleston (col. 2 ln 5-12, Fig. 2 item 262) and (col. 15 ln 25-31, Fig. 2 item 264) respectively. The combination of Eggleston with Caswell and Gilchrist would have been obvious to one of ordinary skill in the art at the time of the invention, the motivation is similar to claim 32.

Regarding claim 34, Caswell does not specifically disclose "a (HTTP) interface" however Gilchrist teaches that the messaging computer systems may receive data by

well-known methods (col. 14 ln 20-25), Caswell does disclose "interface to enable said client systems to automate access" (col. 3 ln 49-59), "a service layer" as application servers (col. 6 ln 67), "a dialog server interface" (col. 9 ln 46-50), "message exchange interface" (col. 9 ln 46-50), "dialog designer database" (col. 9 ln 17-22), "dialog designer data database" (36 Fig. 3). Caswell and Gilchrist do not disclose "message detail record database to store billing [...] information" however Eggleston teaches this (col. 15 ln 25-31, Fig. 2 item 264). The combination of Eggleston with Caswell and Gilchrist would have been obvious to one of ordinary skill in the art at the time of the invention, the motivation is similar to claim 32.

Regarding claim 42, Caswell and Gilchrist do not specifically disclose a "customer relationship management system" however Eggleston teaches this as a billing manager (col. 2 ln 5-12, Fig. 2 item 262). The combination of Eggleston with Caswell and Gilchrist would have been obvious to one of ordinary skill in the art at the time of the invention, the motivation is similar to claim 32.

Regarding claim 45, Caswell and Gilchrist do not specifically disclose "configured to manage service addresses and to perform message billing" however Eggleston teaches this as a billing manager (col. 2 ln 5-12, Fig. 2 item 262). The combination of Eggleston with Caswell and Gilchrist would have been obvious to one of ordinary skill in the art at the time of the invention, the motivation is similar to claim 32.

8.   Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilchrist

et al. U.S. Pat. No. 6,205,471 B1.

        Regarding claim 20, Gilchrist discloses "wherein the segments are created from

list data imported by the program designer into a data database" as a recipient list (Fig.

12) however Gilchrist does not specifically disclose creating segments from "results

data generated by the execution of prior messaging programs" however this would have

been obvious to one of ordinary skill in the art at the time of the invention.

        It would have been obvious for the segments (recipient list) taught by Gilchrist

(Fig. 12) to be created from data generated by the execution of prior messaging

programs. The motivation is that if favorable replies or negative replies are received the

segment (recipient list) may be changed accordingly to be more effective.

9.   Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilchrist

in view of Tucciarone et al. US2004/0122730 A1.

Regarding claim 21, Gilchrist does not specifically disclose "deliver coupons [...] to the messaging users" however Tucciarone teaches using electronic messaging to deliver coupons (pg. 19 Table A steps 22B-24C).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gilchrist with the coupon feature from Tucciarone. The motivation is to fulfill customer requests using electronic messaging.

10.   Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilchrist in view of Dattatri US2002/0049815 A1.

Regarding claim 22, Gilchrist discloses storing service events in a database (Fig. 8) however does not disclose storing "billable events". Dattatri teaches using a database to hold billing information (paragraph 62 pg. 6-7)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Gilchrist with Dattatri. The motivation is to bill users for the amount of messages.

Regarding claim 23, Gilchrist does not disclose the steps of billing for messages however Dattatri teaches "importing the message detail records" (paragraph 88), "rating

and billing said message detail records" (paragraph 88), and "generating organization

invoices" (paragraphs 94-95).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to combine Gilchrist with Dattatri. The motivation is to bill users for the

amount of messages.

Regarding claim 24, Gilchrist does not disclose the steps of billing however

Dattatri teaches "reconciling service provider invoices for messaging transport costs

with service provider account payable reports" as billing for the cost of service

(paragraphs 94-95).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to combine Gilchrist with Dattatri. The motivation is to bill users for the

amount of messages.

Regarding claim 25, Gilchrist does not disclose the steps of billing however

Dattatri teaches "receiving message detail records" (paragraph 88), "importing the

message detail records in the billing MDR database" (paragraph 88), "rating and billing

the message detail records" (paragraph 88), "generating from the message detail

records generated in the messaging service provider system service provider accounts

payable reports" (paragraphs 94-95), and "reconciling the accounts payable reports [...]

with the accounts payable reports" as matching receipt of messages with billing

(paragraph 62).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to combine Gilchrist with Dattatri. The motivation is to bill users for the

amount of messages.

11.   Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gilchrist

in view of Eggleston.

Regarding claim 26, Gilchrist discloses "creating a segment" as a recipient list

(Fig. 12), "starting a messaging program" (col. 19 ln 10-23, Fig. 14), "executing a

bulksend in a dialog server which retrieves the messaging users messaging device

address" (col. 17 ln 16-30, Fig. 12), "executing a messaging program instruction in the

dialog server" it is inherent that program instructions will be executed when the

messaging program is executed (Fig. 14), "routing the push message to a message

exchange" (Fig. 10), and "storing any message status delivery returned" as handle non

delivery method (Fig. 14). Gilchrist does not disclose "filtering out messaging device

address of users that have opted-out" as in step (c) however Eggleston teaches "an opt-

out system" as a user filter (col. 9 ln 27-29, Fig. 4 step 432).

It would have been obvious to combine Gilchrist with Eggleston, the motivation is to provide users and managers with effective means to control messages during a billing cycle (col. 2 ln 5-13).

Conclusion

12.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
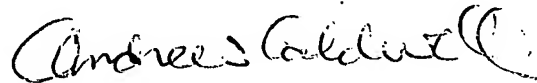
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Recek whose telephone number is (571) 270-1975. The examiner can normally be reached on Mon - Thurs 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andy Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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